

103

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-11892-2022
Date of decision: 22.03.2022

BALJEET RAM

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. K.B. Raheja, Advocate
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

(Through Video Conferencing)

SURESHWAR THAKUR, J. (ORAL)

1. In FIR No.175 of 25.09.2014, registered at Police Station Bahav Wala, District Fazilka, offences constituted under Section 15 of NDPS Act, 1985, are embodied.

2. The incriminatory role as assigned to the present bail applicant, is that he was occupying, hence alongwith its rider, the pillion seat of the offending vehicle/motorcycle. The rider of the offending motorcycle is alleged to, after throwing the plastic bag carrying therein poppy husk weighing 15 kgs, rather flee from the crime site. The flung bag, rather by the accused concerned, was opened by the investigating officer concerned, and, therefrom became retrieved poppy husk weighing 15 kg. *Prima-facie* the act of both the accused concerned, in fleeing from the crime site, is connotative of conduct inconsistent with their innocence. Moreover, since at this stage, there is no evidence suggestive, that the incriminatory role, as assigned to both, inasmuch as theirs after throwing the plastic bag, wherefrom 15 kgs of

poppy husk, become recovered, rather becoming not amenable for any credence being assigned thereto. Therefore, at this stage, sanctity is to meted thereto.

3. Be that as it may, since the weight of the poppy husk carried in the plastic bag concerned, when as afore stated, is revealed to be about 15 kgs, thereupon, the weight of the narcotic drug, kept inside the plastic bag, rather makes it fall within the ambit of non-commercial quantity thereof. Therefore, the rigors of Section 37 of the NDPS Act, are not applicable thereons, and, the bail applicant becomes entitled to his being admitted to anticipatory bail.

4. Consequently, the bail petition allowed, and, the petitioner is admitted to anticipatory bail, and, the investigating officer may not arrest the bail petitioner, however, subject to his furnishing personal, and, surety bonds in the sum of Rs.50,000/- each, to the satisfaction of the arresting officer, and, also subject to his rendering co-operation to him, in the investigations to be carried into the offences mentioned in the present FIR. In addition, he shall not tamper with prosecution evidence nor shall influence the prosecution witnesses.

5. However, the afore made order is subject to compliance to be meted by the bail applicant to the conditions carried in Section 438(2). Moreover, it is also made subject to the bail applicant rendering co-operation with the investigating officer concerned, with respect to the identity of the rider of the offending motorcycle concerned, besides subject to his rendering co-operation to the investigating officer concerned, in respect of the supplier of the seized narcotic drug. In case the afore directed co-operations are not rendered by the bail applicant to the investigating

officer concerned, thereupon, it is open to the State of Punjab to make a motion before this Court for cancelling the order as is recorded today by this Court.

- 6. Disposed of.
- 7. Dasti copy.

(SURESHWAR THAKUR)
JUDGE

22.03.2022

Ithlesh

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No